



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/830,056	04/23/2004	Peer Toftner	3658-1003	8715

466 7590 03/22/2006

YOUNG & THOMPSON  
745 SOUTH 23RD STREET  
2ND FLOOR  
ARLINGTON, VA 22202

EXAMINER

BOEHLER, ANNE MARIE M

ART UNIT PAPER NUMBER

3611

DATE MAILED: 03/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/830,056	TOFTNER, PEER	
	Examiner	Art Unit	
	Anne Marie M. Boehler	3611	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 9-11, 13, 16-18, 22-24, 26, 27, 29-31 and 36-39 is/are rejected.
- 7) ☒ Claim(s) 6-8, 12, 14, 15, 19-21, 25, 28, 32-35 and 40 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.  | 6) <input type="checkbox"/> Other: ____.                                    |

### DETAILED ACTION

1. Claims 1, 14, 15, and 38 are objected to because of the following informalities:

In claims 1, line 2, "-like" should be deleted. In line 20, "said second lowered seat position" lacks antecedent basis in the claim.

In claim 14, line 7, "e.g." is indefinite and must be removed.

In claim 15, line 7, "e.g." is indefinite and must be removed.

In claim 38, line 3, "arranged", first instance, is redundant and should be removed.

Appropriate correction is required.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 4, 9, 11, 26, 31, 36, and 39 are rejected under 35 U.S.C. 102(b) as being anticipated by Nakaya (USPN5,458,213).

Nakaya shows an adjustable position motorcycle with an adjustable seat 37, a movable handlebar assembly 55, and a movable footrest assembly 45. The seat includes tubes fixed to the seat that slide on rails 39. The footrest assembly includes front 47 and rear 46 footrests on each side of the motorcycle, that can be moved between different fixed positions to adjust to the desired rider position. The handlebar assembly includes an adjustment assembly that moves the handlebar between forward and rearward positions.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2, 3, 27, 29, 30, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakaya in view of Dennert (USPN 6,846,018).

Nakaya lacks a gearshift lever for each use with the foot pegs.

Dennert teaches positioning the gear/brake levers proximate each footrest 144 for use therewith.

It would have been obvious to one of ordinary skill in the art to provide the Nakaya motorcycle with gear/brake levers proximate each footrest, for use therewith, in view of Dennert, in order to conveniently control gear shifting and braking functions.

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nakaya in view of Fukunaga (USPNM 6,332,625).

Nakaya lacks a triple tree arrangement for the handlebar assembly.

Fukunaga shows a motorcycle handlebar assembly including a triple tree assembly 13 including upper 52 and lower 53 triple tree plates.

It would have been obvious to configure the front fork of the Nakaya arrangement as a triple tree assembly, as taught by Fukunaga, in order to reinforce the front fork structure.

7. Claims 10 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakaya.

Nakaya is silent regarding the use of an actuator to adjust the seat position. However, seat adjustment actuators on automotive vehicles are old and well known. It would have been obvious to one of ordinary skill in the art to provide a seat adjustment actuator for the Nakaya seat, in order to facilitate adjustment of the seat position.

8. Claims 13, 16, 17, and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakaya in view of Walker.

Nakaya lacks footrests moved on a slide rail.

Walker shows a motorcycle with movable footrests 28 movably mounted along slide rails 14.

It would have been obvious to one of ordinary skill in the art adjust the position of the Nakaya footrests by sliding them along rails, as taught by Walker, in order to simplify the adjustment mechanism. It would also have been obvious to use a seat adjustment actuator, as is well known in the art, in order to facilitate adjustment of the seat position.

9. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nakaya and Walker as applied to claims 13 and 17, and further in view of Fukunaga.

The combination lacks a triple tree arrangement for the handlebar assembly.

Fukunaga shows a motorcycle handlebar assembly including a triple tree assembly 13 including upper 52 and lower 53 triple tree plates.

It would have been obvious to configure the front fork arrangement as a triple tree assembly, as taught by Fukunaga, in order to reinforce the front fork structure.

Art Unit: 3611

10. Claims 6-8, 12, 14, 15, 19-21, 25, 28, 32-35, and 40 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kobacker show sa motorcycle with adjustable handlebars and footrests.

Rice shows a motorcycle with multiple footrest positions.

Carone shows a footrest and gearshift arrangement.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anne Marie M. Boehler whose telephone number is 571-272-6641. The examiner can normally be reached on 7:30-5:00, Monday-Thursday, and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6612. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3611

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 3/20/06  
Anne Marie M. Boehler  
Primary Examiner  
Art Unit 3611

amb